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EXAMINER

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/553,810
Filing Date: October 18, 2005
Appellant(s): BURNETT ET AL.

Robert B. Levy
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/23/2009 appealing from the Office action mailed 05/18/2009.

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(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

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(8) Evidence Relied Upon

5,136,397

MIYASHITA

8-1992

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Miyashita (US Patent 5,136,397).

For ***claims 1-5***, first claim 1 recite the limitations of “*means for receiving a power-off command, means for maintaining the lamp in an off- condition during a predetermined cool-down period following receipt of the power-off command, means for receiving a power-on command during the predetermined cool-down period, and means for automatically powering on the lamp at the end of the predetermined cool-down period if the power-on command is received during the predetermined cool-down period*” wherein these means (or step)-plus-function claim limitations are interpreted to be one single device, i.e. a controller. This interpretation is fully supported by the instant specification (see section: [00015]; fig. 1).

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Here, Miyashita discloses a video projection system (see e.g. Abstract; col. 2, lines 26-36; fig. 2). As illustrated by figure 2, the system comprises a control unit (ref. #32) (refers to instant claimed means (or step)-plus-function claim limitations), a display, and a lamp (see e.g. col. 4, lines 12-42). The control unit (ref. #32) controls and operates the display and lamp (see e.g. col. 4, line 43 thru col. 5, line 20; col. 8, line 13 thru col. 9, line 47; figs. 11A, 11B, and 12-14).

Miyashita discloses a method of turning the lamp off that comprises the steps of receiving a power-off command and maintaining the lamp in an off-condition during a predetermined cool-down period of time following receipt of the power-off command (see e.g. col. 8, line 13 thru col. 9, line 47; figs. 11A, 11B, and 12). Miyashita discloses also a method of restarting the lamp that comprises the steps of receiving a power-on command during the predetermined cool-down period of time, and automatically powering on the lamp at the end of the predetermined cool-down period of time if the power-on command is received during the predetermined cool-down period of time, and signaling receipt of a power-on command during the cool-down period of time (see e.g. col. 9, lines 28-47; fig. 14). The system further comprises LED (refers to instant claim 3), a timer (refers to instant claim 4), and a counter (refers to instant claim 5) (see e.g. see e.g. col. 8, lines 13-59).

For *claims 6-8*, Miyashita discloses a method of turning the lamp off that comprises the steps of receiving a power-off command and maintaining the lamp in an off-condition during a predetermined cool-down period of time following receipt of the power-off command (see e.g. col. 8, line 13 thru col. 9, line 47; figs. 11A, 11B, and 12). Miyashita discloses also a method of restarting the lamp that comprises the steps of receiving a power-on command during the predetermined cool-down period of time, and automatically powering on the lamp at the end of

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the predetermined cool-down period of time if the power-on command is received during the predetermined cool-down period of time, signaling receipt of a power-on command during the cool-down period of time, and blinking an indicator for the remainder of the cool-down period of time following receipt of a power-on command during the cool-down period of time (see e.g. col. 9, lines 28-47; fig. 14).

For *claim 9*, Miyashita discloses that a microprocessor system performs all of the functions of the control unit wherein several computer-implemented processes (programs) are used (see e.g. col. 5, lines 21-47; fig. 3). A program that performs the method of turning the lamp off that comprises the steps of receiving a power-off command and maintaining the lamp in an off-condition during a predetermined cool-down period of time following receipt of the power-off command (see e.g. col. 8, line 13 thru col. 9, line 47; figs. 11A, 11B, and 12).

Miyashita discloses also a program that performs the method of restarting the lamp that comprises the steps of receiving a power-on command during the predetermined cool-down period of time, and automatically powering on the lamp at the end of the predetermined cool-down period of time if the power-on command is received during the predetermined cool-down period of time, signaling receipt of a power-on command during the cool-down period of time, and blinking an indicator for the remainder of the cool-down period of time following receipt of a power-on command during the cool-down period of time (see e.g. col. 9, lines 28-47; fig. 14).

Therefore, the device, product, and method of Miyashita do anticipate the instant claimed invention.

(10) Response to Argument

DISCUSSION

2. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Miyashita (US Patent 5,136,397).

[1] Appellant asserts that the reference of Miyashita does “*do not disclose or suggest all of the features of Claims 1-9*”, especially the limitations: **a)** “*Claims 1-5 recite, inter alia: means for automatically powering on the lamp at the end of the predetermined cool-down period of time if the power on command is received during the predetermined cool-down period of time*”; **b)** “*Claims 6-8 recite, inter alia: automatically powering on the lamp at the end of the cool-down period of time if a power-on command was received during the cool-down period of time*”; **c)** “*Claim 9 recites, inter alia: automatically powers on the lamp following the cooling down period of time if a power-on signal is received during the cool-down period of time*”.

Thus, the reference of Miyashita does not anticipate the inventions of the instant claims.

This is not found persuasive for the following reasons:

[1] The examiner respectfully disagrees. It is the examiner’s position that the reference of Miyashita does anticipate the inventions of the instant claims, i.e. claims 1-9.

a) In regards to claims 1-5, it is the examiner’s position that the reference of Miyashita does disclose all the claimed features of claims 1-5, especially the limitation of ‘*means for automatically powering on the lamp at the end of the predetermined cool-down period of time if the power on command is received during the predetermined cool-down period of time*’. First, the claimed “*means*” for the limitation of “*means for automatically powering on the lamp at the end of the predetermined cool-down period of time if the power on command is received during*

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the predetermined cool-down period of time” is interpreted to be one single device, i.e. a controller, wherein this interpretation is fully supported by the original specification (see section: [00015]; fig. 1) as discussed in the above 102 rejection (see paragraph 1). Here, Miyashita discloses a video projection system (refers to instant claimed video display system) that comprises a control unit (ref. #32 of fig. 2) (refers to instant claimed means of claim 1), a display, and a lamp (see e.g. col. 4, lines 12-42; fig. 2). Thus, Miyashita anticipates the structural limitations of the instant claimed video display system of claim 1, i.e. a lamp and a controller (the instant claimed ‘*means*’ of the means (or step)-plus- function claim limitations of claim 1). The system of Miyashita further comprises LEDs, a timer, and a counter (see e.g. see e.g. col. 8, lines 13-59), and as a result, Miyashita also anticipates the structural limitations of the instant claimed video display system of claims 3, 4, and 5, i.e. an LED, timer, and counter, respectively. Moreover, Miyashita discloses that the control unit controls and operates the display and lamp via several different routines and subroutines (control/operating programs) (see e.g. col. 4, line 43 thru col. 5, line 20; col. 8, line 13 thru col. 9, line 47; figs. 11A, 11B, and 12-35). As illustrated by figure 14, Miyashita discloses a projection lamp restart program that comprises the method steps of a) turning off the projection lamp power supply (ref. #191) (refers to instant claimed functional limitation of ‘*for receiving a power-off command*’); b) turning off the LED LD_{3g} and flashing the LED LD_{3r} (ref. #192) (refers to instant claimed functional limitation of ‘*for blinking the power LED for the remainder of the cool-down period of time upon receipt of a power-on command during the cool-down period of time*’); c) flashing the LED LD₂; d) inserting a time delay (ref. #194) (refers to instant claimed functional limitation of ‘*for maintaining the lamp in an off-condition during a predetermined cool-down period of time*’).

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following receipt of the power-off command of claim 3); e) turning on the projection lamp power supply (ref. #195) (refers to instant claimed functional limitation of *'for receiving a power-on command during the predetermined cool-down period of time'* and instant claimed functional limitation of *'for automatically powering on the lamp at the end of the predetermined cool-down period of time if the power-on command is received during the predetermined cool-down period of time'*); f) inserting a time delay (ref. #196); g) determining if the lamp is on (ref. #197); g) turning off the LED LD_{3r} and flashing the LED LD_{3g} (ref. #201) (refers to instant claimed functional limitation of *'for signaling receipt of a power-on command during the cool-down period of time'* of claim 2); and h) turning off the LED LD₂ (see col. 9, lines 28-47).

Hence, the reference of Miyashita does disclose all the claimed features of claims 1-5. Second, in regard to the phrase of *'predetermined cool-down period of time'*, neither the instant claims nor the original specification specifically define this phrase whereas a specific temperature is use in the definition. Claim 1 recites *"means for maintaining the lamp in an off-condition during a predetermined cool-down period of time following receipt of the power-off command"*. This recitation impart that the phrase of *'predetermined cool-down period of time'* is define to a period of time when the lamp is off, and as a result would encompasses the interpretation that the time delay (ref. #194) of the projection lamp restart program, which is disclosed by figure 14 in the reference of Miyashita. Moreover, appellant assertion that the time delay (ref. #194) of the projection lamp restart program would not read on the phrase of *'predetermined cool-down period of time'* and base this assertion on figures 15A and 15B of the reference of Miyashita is perplexing. Because: 1) figures 15A and 15B of the reference of Miyashita do not disclose a delay time of reference #194, and 2) figures 15A and 15B of the reference of Miyashita represent

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the sub-routine in response to overheating conditions (see col. 3, lines 22-23; col. 9, lines 48-51).

Therefore, the teachings of Miyashita do anticipate the invention of the instant claims 1-5.

b) In regards to claims 6-8, it is the examiner's position that the reference of Miyashita does disclose all the claimed features of claims 6-8, especially the limitation of *"automatically powering on the lamp at the end of the cool-down period of time if a power-on command was received during the cool-down period of time"*. First, the instant claim 6 recites a method of using (i.e. a method of powering on) *"a video display system having a lamp energized to produce an image"*, i.e. a display device with a lamp. Here, Miyashita discloses a video projection system (refers to instant claimed video display system) that comprises a control unit (ref. #32 of fig. 2), a display, and a lamp (see e.g. col. 4, lines 12-42; fig. 2). As illustrated by figure 14, Miyashita discloses a projection lamp restart program (refers to instant claimed method of powering on) that comprises the method steps of a) turning off the projection lamp power supply (ref. #191); b) turning off the LED LD_{3g} and flashing the LED LD_{3r} (ref. #192) (refers to instant claimed method step of claim 8); c) flashing the LED LD₂; d) inserting a time delay (ref. #194) (refers to instant claimed method step (a), i.e. *'maintaining the lamp in an off condition during a predetermined cool-down period of time following receipt of a power-off command'* of claim 3); e) turning on the projection lamp power supply (ref. #195) (refers to instant claimed method step (b), i.e. *'automatically powering on the lamp at the end of the predetermined cool-down period of time if the power-on command is received during the predetermined cool-down period of time'*); f) inserting a time delay (ref. #196); g) determining if the lamp is on (ref. #197); g) turning off the LED LD_{3r} and flashing the LED LD_{3g} (ref. #201) (refers to instant claimed method step of claim 7); and h) turning off the LED LD₂ (see col. 9, lines 28-47). Hence, the

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reference of Miyashita does disclose all the claimed features of claims 6-8. Second, in regard to the phrase of *'predetermined cool-down period of time'*, neither the instant claims nor the original specification specifically define this phrase whereas a specific temperature is use in the definition. Claim 1 recites "*means for maintaining the lamp in an off-condition during a predetermined cool-down period of time following receipt of the power-off command*". This recitation impart that the phrase of *'predetermined cool-down period of time'* is define to a period of time when the lamp is off, and as a result would encompasses the interpretation that the time delay (ref. #194) of the projection lamp restart program, which is disclosed by figure 14 in the reference of Miyashita. Moreover, appellant assertion that the time delay (ref. #194) of the projection lamp restart program would not read on the phrase of *'predetermined cool-down period of time'* and base this assertion on figures 15A and 15B of the reference of Miyashita is perplexing. Because: 1) figures 15A and 15B of the reference of Miyashita do not disclose a delay time of reference #194, and 2) figures 15A and 15B of the reference of Miyashita represent the sub-routine in response to overheating conditions (see col. 3, lines 22-23; col. 9, lines 48-51). Therefore, the teachings of Miyashita do anticipate the invention of the instant claims 6-8.

c) In regards to claim 9, it is the examiner's position that the reference of Miyashita does disclose all the claimed features of claim 9, especially the limitation of "*automatically powers on the lamp following the cooling down period of time if a power-on signal is received during the cool-down period of time*". First, claim 9 recite a program that is executed by a processor. Here, Miyashita discloses that a microprocessor system performs all of the functions of the control unit wherein several computer-implemented processes (programs) are used (see e.g. col. 5, lines 21-47; fig. 3). As illustrated by figure 14, Miyashita discloses a projection lamp restart program

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(refers to instant claimed program) that comprises the method steps of a) turning off the projection lamp power supply (ref. #191); b) turning off the LED LD_{3g} and flashing the LED LD_{3r} (ref. #192) (refers to instant claimed method step of claim 8); c) flashing the LED LD₂; d) inserting a time delay (ref. #194) (refers to instant claimed method step of ‘*maintains a lamp in an off condition during a cool down period of time*’ of claim 3); e) turning on the projection lamp power supply (ref. #195) (refers to instant claimed method step of ‘*automatically powers on the lamp following the cooling down period of time if a power-on signal is received during the cool-down period of time*’); f) inserting a time delay (ref. #196); g) determining if the lamp is on (ref. #197); g) turning off the LED LD_{3r} and flashing the LED LD_{3g} (ref. #201) (refers to instant claimed method step of claim 7); and h) turning off the LED LD₂ (see col. 9, lines 28-47).

Hence, the reference of Miyashita does disclose all the claimed features of claim 9. Second, in regard to the phrase of ‘*predetermined cool-down period of time*’, neither the instant claims nor the original specification specifically define this phrase whereas a specific temperature is use in the definition. Claim 1 recites “*means for maintaining the lamp in an off-condition during a predetermined cool-down period of time following receipt of the power-off command*”. This recitation impart that the phrase of ‘*predetermined cool-down period of time*’ is define to a period of time when the lamp is off, and as a result would encompasses the interpretation that the time delay (ref. #194) of the projection lamp restart program, which is disclosed by figure 14 in the reference of Miyashita. Moreover, appellant assertion that the time delay (ref. #194) of the projection lamp restart program would not read on the phrase of ‘*predetermined cool-down period of time*’ and base this assertion on figures 15A and 15B of the reference of Miyashita is perplexing. Because: 1) figures 15A and 15B of the reference of Miyashita do not disclose a

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delay time of reference #194, and 2) figures 15A and 15B of the reference of Miyashita represent the sub-routine in response to overheating conditions (see col. 3, lines 22-23; col. 9, lines 48-51).

Therefore, the teachings of Miyashita do anticipate the invention of the instant claim 9.

Therefore, the teachings of Miyashita do anticipate the inventions of the instant claims, and the rejection is maintained.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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